

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-29001

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 10, 2009

Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on December 10, 2009. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) properly determined claimant's eligibility for Medical Assistance (MA).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) During April 2009, claimant was the recipient of long-term care Medical Assistance. Her assistance was due for financial review. Department Exhibit A, pg 5. Claimant submitted a new application and all required proofs. Department Exhibit A, pgs 6-16.

(2) May 8, 2009, the department reviewed claimant's proofs and prepared an MA budget. The budget indicates that claimant has excess assets to qualify for long-term care Medical Assistance. Claimant's homestead has a State Equalized Value of \$ [REDACTED]. Attached land has a State Equalized Value of [REDACTED]. Department Exhibit A, pgs 12-13, and 18.

#### CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers: countable assets cannot exceed the applicable asset limit. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The asset limit for SSI-related MA, asset group of one, is [REDACTED]

MA will not pay the client's cost for home health services, home and community based services, long-term care services, and home health when the equity in the client's homestead exceeds [REDACTED]. Employment-related assets such as farmland and the building where a

business is located might be excluded. Exclude up to [REDACTED] in equity in income producing real property if it produces annual countable income equal to at least six percent of the asset group's equity in the asset. Countable income is total proceeds minus actual operating expenses. Employment asset values should be evaluated under the appropriate section of PEM 400. Program Eligibility Manual (PEM) 400; Social Security Act, Sections 1902(a)10; (r)2; Deficit Reduction Act of 2005; 42 CFR 435.840-845; MCL 400.106.

In this case, claimant is sole owner of homestead real estate valued at [REDACTED] (SEV value times 2). Department policy provides that homesteads with equity interest greater than [REDACTED] do not qualify for long-term care Medicaid. At hearing, claimant asserted this department policy is in violation of federal law. This assertion is not consistent with the Deficit Reduction Act of 2005, Title VI, Section 6014 that provides that individuals with equity interest in their homes greater than [REDACTED] are not eligible for Medical Assistance for nursing facility or other long-term care services. At hearing, claimant asserted that the homestead excluded as employment-related property or income producing property. This assertion is not consistent with department policy as stated in PEM 400 above. The homestead does not produce income and is not currently being used to generate income or for employment of the claimant. Accordingly, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, UPHELD.

/s/  
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Jana A. Bachman  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 28, 2009

Date Mailed: December 30, 2009

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JAB/db

cc:

